away, and in the state of the traffic and in roads of this size, such action was both safe and reasonable. In my opinion although the negligence of both may have contributed to a position where a collision would result, the first defendant is alone responsible for its occurring.

There will therefore be judgment for the plaintiffs for the amounts assessed with costs against first defendant, while the case against second defendant is dismissed and plaintiffs should pay his costs.

On further arguments — varied first defendant to pay second defendant's costs directly to him.

*Judgment for plaintiffs against first defendant; claim against second defendant dismissed.*

## NAI KANG TEO v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.)
November 29, 1950]

[Singapore — Magistrate's Appeal No. 139 of 1950]

*Societies Ordinance (Cap. 217), ss. 11 and 15 — Presumptive proof of membership — Relental.*

In this case the appellant was charged together with one Chng Chin Ngain as follows:—

"That he, on or about the 17th day of April, 1950, at Singapore, did assist in the management of an unlawful society to wit, the San Ji which is neither registered nor exempted under the provisions of Chapter 217, and thereby committed an offence punishable under section 11, Chapter 217."

The evidence for the prosecution was that Chng Chin Ngain the co-accused of the appellant in the Court below, who met the appellant at No. 63 River Valley Road, had taken certain unwrapped articles relating to San Ji Society, which was an unlawful society, to the house of the appellant, 65 River Valley Road, and told him that the articles concerned "the shrine". The appellant who was about to leave No. 63 River Valley Road, asked his co-accused to give the articles to his wife. Later the police went to No. 65 River Valley Road, the house of the appellant. The appellant arrived later, went to his bedroom and took down a basket hanging on the wall. The basket contained the things received from Chng Chin Ngain. The things when examined proved to be such as would give rise to the presumption under section 15(2) of the Societies Ordinance. The appellant was the principal tenant of the house. The appellant denied that he knew anything about the contents of the basket and that he was a member of a secret society.

**Held**, (1) that the evidence proved that the things were there with the consent of the appellant; and (2) that in view of the wording of section 15(2) of the Societies Ordinance "it shall be presumed" and not "it may be presumed", to relent the presumption there must be more than bare denial that the appellant was not a member of a secret society.

MAGISTRATE'S APPEAL.

*D. S. Marshall* for the appellant.

*L. Rayner* (D.P.P.) for the Crown.

*Cur. Adv. Vult.*

**Murray-Aynsley, C.J.** : — The appellant was convicted on a charge of assisting in the management of an unlawful society. The appeal against conviction turns on the presumption contained in section 15 of the Societies Ordinance (Cap. 217). It is in the first place argued that the presumption does not arise because the offending articles were never in possession of the appellant within the meaning of the section and further that the presumption, if it had ever arisen, had been displaced by proof to the contrary.

It appears that a raid was to take place on a certain house used as a coolie house in River Valley Road. Before the raid one Chng Chin Ngain, who was a co-accused of the appellant in the Court below, took certain articles to the house of the appellant. Before he went into the house he met the appellant and told him that they were things concerning the shrine and that one Ho Loh would call for them. The appellant said that he was going out and asked Chng to give them to his (the appellant's) wife. Chng did so. He told the wife of the appellant what the appellant had said that the things had to do with the shrine. The wife put the things in a basket. There was evidence that when Chng met the appellant the things were not wrapped up in any way.

Later the Police went to the house of the appellant. The appellant arrived later, went to his bed and took down a basket hanging on the wall. The basket contained the things received from Chng. The things when examined proved to be such as would give rise to the presumption under section 15(2). The appellant was the principal tenant of the house.

The evidence clearly proved that the things were there with the consent of the appellant. From the evidence it would be hard to resist the inference that the appellant knew what they were. Though there is no evidence that the appellant was in the house at the same time as the things until he was fetched by the Police, it seems to me that in the circumstances they were clearly in his possession.

In these circumstances the section says that it shall be presumed, not "may be presumed".

As against this the evidence for the appellant only amounted to a bare denial that he was a member of a secret society. Though it was probably not necessary to draw an adverse inference from the fact that the appellant had done no work since the period of the Japanese occupation, it is impossible to say that the learned Judge was wrong in not holding that the presumption had been disproved.

As regards the sentence, this is severe. However, the evidence indicates that the society was one of a dangerous character and I cannot therefore say that it was excessive.

*Appeal dismissed.*